

APPEAL NO. 042736
FILED DECEMBER 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 6, 2004. With regard to the disputed issues, the hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fifth and sixth quarters.

Neither party to the proceeding appealed; however, Dr. A, in an undated letter, received by the Texas Workers' Compensation Commission (Commission) on November 1, 2004, addressed to the Appeals Clerk, Hearings, states that the "letter is an appeal effort on behalf of [the claimant] from Rehab Orthopedic Medicine" (Clinic). We note that Dr. A's letter does not indicate service on the respondent (self-insured) (see Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(a)(4) (Rule 143.3(a)(4)) and the file does not contain a response from the self-insured.

Dr. A's letter recites that he has a copy of the hearing officer's decision and order and discusses some correspondence that he has exchanged with the Commission in his capacity as the treating doctor. We further note that Dr. A is out-of-state and that the claimant appeared at the CCH by telephone. Dr. A admits that he has "provided some contradictory work status reports" and asks "this letter serve as an appeal to the decision regarding [the claimant's] [SIBs]. . . ."

Section 410.202 and Rule 143.3 indicate the procedure whereby "a party to a benefit [CCH]" may request review of the hearing officer's decision. Rule 140.1 defines party to a proceeding as "a person entitled to take part in a proceeding because of a direct legal interest in the outcome."

Rule 143.1 defines appellant as "a party to a benefit [CCH] who is dissatisfied with the decision of the hearing officer, and files a request for review of that decision by the appeals panel." Clearly Dr. A, who was not present at the CCH, was not a party at the CCH nor is there any evidence, or allegation, that he is a subclaimant as provided for in Section 409.009.

Chapter 150 of the Commission Rules deals with representation of parties before the agency. Specifically Rule 150.3 defines a representative as an insurance adjuster, or an attorney or "(3) the person who is not either an adjuster or attorney files with the Commission a written power of attorney, or written authorization from the claimant, allowing that person access to Confidential records." There is no evidence that Dr. A qualifies as a representative under Rule 150.3(3).

In this particular case, although the undated letter states that it "is an appeal effort on behalf of the [claimant]" Dr. A did not sign the letter "on behalf" of the claimant, and there is no evidence that the claimant was aware that Dr. A wrote the letter or

otherwise authorized release of medical information in the letter. Further, Dr. A is clearly not a party or a subclaimant or is otherwise authorized to act as the claimant's representative pursuant to Rule 150.3(3). Under the circumstances, we hold that Dr. A has no standing to appeal, that he was not a party at the CCH, nor a subclaimant and that he did not qualify as a representative under Rule 150.3(3). Therefore, there is no appeal before us and consequently the decision and order of the hearing officer have become final pursuant to Section 410.169. So ordered.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

(NAME)
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge